

REMARKS

Claims 1, 3-6, 8-9, 11-20, 22, 24-25, 27, 29-31, 33, 35-37, 39-40, and 42-43 are pending.

Claims 2, 7, 10, 21, 23, 26, 28, 32, 34, 38, and 41 have been cancelled.

Claims 44-47 have been added.

In the Office Action dated September 16, 2009, claim 43 was objected to; claims 21-22 were rejected under 35 U.S.C. § 112, ¶ 2; claims 1, 5-7, 11-15, 17-18, 24-27, 29, 35, 38, 40, and 42-43 were rejected under 35 U.S.C. § 102(b) as anticipated by Kishi (U.S. Patent No. 5,023,771); and claims 3-4, 8, 10, 16, 19-23, 30, 31, 33, 37, 39 and 41 were rejected under 35 U.S.C. § 103(a) as unpatentable over Kishi in view of Bennett (U.S. Patent Publication No. 2004/011732).

CLAIM OBJECTION

Claim 43 has been amended to address the claim objection. Therefore, withdrawal of the objection of claim 43 is respectfully requested.

REJECTION UNDER 35 U.S.C. § 112, ¶ 2

Although paragraph 5 on page 3 of the 09/16/2009 Office Action purports to reject claims 21-22 under § 112, ¶ 2, note that the text accompanying this rejection refers to only claims 1 and 18. In view of the amendments of claims 1 and 18, it is respectfully submitted that the § 112, ¶ 2, rejection of the claims have been rendered moot.

Therefore, withdrawal of the § 112 rejections is respectfully requested.

SUMMARY OF TELEPHONIC INTERVIEW

On or about September 8, 2009, Examiner Abdullah Al Kawsar called the undersigned to make the following proposal with respect to claim 1 to place the claim in condition for allowance. The Examiner proposed that claim 1 be amended to specify that a global variable is set during a boot process to indicate whether the flexible operating system is to be used as a native operating system or as a virtualized operating system, and that the determining task of claim 1 is based on the global variable. The Examiner also proposed that the flexible operating

system when used as a virtualized operating system is a paravirtualized operating system that performs a privileged operation by calling a VMM.

No agreement was reached during the telephonic interview. No references or exhibits were discussed.

The present Office Action indicated that claim 1 would be allowable if rewritten to incorporate the subject matter of dependent claims 4 and 5. Claim 5 has been amended from dependent form to independent form, with claim 5 incorporating the subject matter of former claims 1, 3, and 4. In view of the indication of allowability made in the Office Action, it is respectfully submitted that claim 5 is in condition for allowance.

REJECTIONS UNDER 35 U.S.C. §§ 102 AND 103

Claim 1 has been amended to recite that determining whether the flexible operating system is being used as a native operating system or as a virtualized operating system is based on checking a variable set during a boot process of the computer system. The added language is consistent with part of the Examiner's proposal made during the telephonic interview.

It is respectfully submitted that Kishi clearly provides no teaching or hint of performing the determining of claim 1 based on checking a variable set during a boot process of the computer system. Kishi discloses a host operating system 11, as well as separate guest operating systems 16, 17, and 19. The host operating system 11 of Kishi cannot be considered the flexible operating system that is configurable to be used as a native operating system or as a virtualized operating system. The guest operating systems of Kishi also cannot be considered a flexible operating system that is configurable to be used as the native operating system or as the virtualized operating system, as recited in claim 1.

In view of the foregoing, it is respectfully submitted that claim 1 is clearly allowable over Kishi.

The remaining independent claims 11, 17, 27, and 35 are similarly not anticipated by Kishi.

In view of the allowability of base claims over Kishi, the obviousness rejections of dependent claims over Kishi and other references have been overcome.

In view of the foregoing, allowance of all claims is respectfully requested.

The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (200315952-1).

Respectfully submitted,

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